

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

BARBARA PETROSKI, et al.,)	
individually and on behalf of all other similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	No. 10-00075-CV-W-DW
)	
H&R BLOCK ENTERPRISES LLC, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is Plaintiffs' Unopposed Motion for Class Certification (Doc. 67), Robert Shaw's pro se Motion to Join the Class Action, Broaden the Scope and Strike Down Defendants' Evidence (Doc. 64) and Robert Shaw's Motion for Default Judgment Pursuant to Federal Rule of Civil Procedure 55(a)(b)(2) [sic] (Doc. 69).

I. CLASS CERTIFICATION AND NOTICE

Plaintiffs have moved the Court for certification of the following classes pursuant to Federal Rule of Civil Procedure 23:

All persons who meet the following criterion: (1) currently employed, or were previously employed, by H&R Block as a tax professional in California; and (2) were not paid for the time spent completing mandatory re-hire training after a tax season in order to be eligible to prepare returns for the next tax season; and (3) any of this training took place on or after March 4, 2006.

and

All persons who meet the following criterion: (1) currently employed, or were previously employed, by H&R Block as a tax professional in New York; and (2) were not paid for the time spent completing mandatory re-hire training

after a tax season in order to be eligible to prepare returns for the next tax season; and (3) any of this training took place on or after March 4, 2006.

Plaintiffs seek exclusion from these classes: (a) any Judge or Magistrate presiding over this action and members of their families; (b) Defendants and any entity in which Defendants have a controlling interest or which has a controlling interest in Defendants and their legal representatives, assigns and successors of Defendants; and (c) all persons who properly execute and file a timely request for exclusion from the class.

Plaintiffs have also submitted proposed notice forms of which they seek Court-authorization. Plaintiffs request that the Court order H&R Block to provide the contact information of the class members to a neutral third party administrator, authorize the administrator to issue the proposed notice forms and permit the class members a 60-day period to "opt out" of their class, as this was the process approved by this Court for the FLSA action in this matter. Plaintiffs' counsel also proposes to create a website containing the Court documents related to this case and listing the website address on the notice form. Defendants have not opposed class certification, the form of notice, the notice plan or the 60-day opt out period. Upon consideration of Plaintiffs' motion and the applicable law, the Court finds that certification of the classes described by Plaintiffs is appropriate. The Court further finds that the proposed notice, the notice plan and the 60-day opt out period are appropriate. Accordingly, Plaintiffs' Unopposed Motion for Class Certification is granted. The Court appoints the named Plaintiffs Barbara Petroski, Cathy Camden, Lance Hom and Stacey Oyer as class representatives. Plaintiffs' counsel as listed in Plaintiffs' Motion for Class Certification is appointed Class Counsel.

II. ROBERT SHAW'S PRO SE MOTIONS

Robert Shaw seeks to join this lawsuit as a member of the FLSA class previously certified by this Court. Plaintiff's request is denied. Plaintiff has provided no evidence to show that he was an H&R Block employee who completed mandatory re-hire training to be eligible to prepare tax returns for the next tax season during the applicable time period—on or after April 15, 2007. Because Robert Shaw is not a party to this litigation, his motions requesting the Court strike Defendants' evidence, enter a default judgment against Defendants and broaden the scope of the FLSA action to include his allegations of age and disability discrimination and retaliation are denied.

III. CONCLUSION

For the reasons described in this Order, Plaintiffs' Unopposed Motion for Class Certification (Doc. 67) is GRANTED. Robert Shaw's pro se Motion to Join the Class Action, Broaden the Scope and Strike Down Defendants' Evidence (Doc. 64) and Robert Shaw's Motion for Default Judgment Pursuant to Federal Rule of Civil Procedure 55(a)(b)(2) [sic] (Doc. 69) are DENIED.

Accordingly, the Court hereby ORDERS:

(1) Defendants shall provide the name, mailing address and last known e-mail address of those individuals who meet the requirements of the California and New York classes described above to a neutral third party administrator;

(2) That neutral third party administrator shall issue the notices attached to Plaintiffs' motion as Exhibits 2 and 3 via U.S. mail (and e-mail, if applicable) to the class members;

(3) The class members shall have 60 days from the date of the mailing of the notices to opt out of their respective classes; and

(4) The Clerk of the Court is directed to send a copy of this Order via certified mail,
return receipt requested, to Robert Shaw at:

1215 Jefferson Ave.
Indianapolis, IN 46201

SO ORDERED.

Date: June 1, 2011

/s/ Dean Whipple
Dean Whipple
United States District Judge